IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 145 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TROIKAA PARENTERALS & 1 - Petitioner(s)

Versus

VINODBHAI SOMNATH PATEL - Respondent(s)

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Appearance :

MR KM PATEL for Petitioner No(s).: 1,2.

MR DJ BHATT for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 13/07/2005

ORAL JUDGMENT

1.0 The petitioners have challenged the award dated 28.07.1999 passed by the Labour Court, Kalol in Reference

(LCK) No. 279 of 1990, whereby the said reference was partly allowed.

2.0 The brief facts of the case are that the respondent herein was an employee of the petitioner Company. On 13.02.1990 the workmen of the petitioner Company resorted to strike. It is the case of the petitioner that at the time when the strike was resorted to, Settlement dated 25.02.1988 was in force, which contained an express Condition that the workmen, during the operation of the said Settlement, will not raise any new demands and will continue production in a peaceful and disciplined way.

2.1 During the period of strike, settlement was arrived at on 22.02.1990 before the Government Labour Officer under which the workmen agreed to call off the strike and resume duties from 23.02.1990 onwards. However, petitioner no.2 herein was required to suspend one Amrutbhai Raval on 24.02.1990 on the ground of misconduct. On his suspension, the workmen again went on strike from 25.02.1990.

2.2 Thereafter, it was agreed before the Assistant Commissioner of Labour, Mehsana that the workmen will call off the strike and will resume duties from 09.03.1990. However, the workmen did not resume the duties on the said

date.

2.3 Since the respondent workman did not report for duty on the said date, Notice dated 09.03.1990 was issued to him to report for duty by 15.03.1990, failing which the Management will recruit fresh hands in place of the striking workers. In spite of the above, the respondent did not resume for duty, and therefore, show cause notice dated 19.03.1990 was issued to the respondent. Departmental inquiry was held against the respondent.

2.4 It is the case of the petitioner that before the order of penalty could be passed on the basis of the report of the Inquiry Officer, the respondent approached the Conciliation Officer alleging that he has been orally dismissed from service w.e.f. 25.02.1990. The dispute later culminated into a reference being Reference (LCK) No.279 of 1990.

2.5 The Labour Court, Kalol, after hearing the parties, passed the impugned order, whereby the petitioners were directed to reinstate the respondent with full back wages. Hence, this petition.

3.0 The matter was argued at length before this Court on

24.06.2005. On that day, a suggestion was put by this Court to the learned counsel for the parties as to whether the respondent workman could be given fresh employment in the petitioner Company, considering his past service with the petitioner Company only for the purpose of terminal benefits.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. Both the sides have considered the suggestion put forward by this Court in its true spirit. Hence, with the consent of learned counsel for the parties, the following order is passed;

(A) The petitioner Company is directed to give fresh employment to the respondent workman on or before 30.07.2005 at its Head Office situated in Ahmedabad, i.e. Troikaa Pharmaceuticals Ltd., Ahmedabad.

(B) The respondent workman shall resume the duty on 01.08.2005 at Troikaa Pharmaceuticals Ltd., Ahmedabad.

(C) The petitioner Company shall pay the respondent workman the terminal benefits for the service actually rendered by him, i.e service rendered up to

25.02.1990 only.

(D) It is made clear that as and when any vacancy arises at Village Thol, Taluka Kadi, District Mehsana, the petitioner Company shall accommodate the respondent workman at the said place.

5.0 In the result, this petition is allowed. The impugned award dated 28.07.1999 passed by the Labour Court, Kalol, in Reference (LCK) No. 279 of 1990 is substituted by the aforesaid order of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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